

1                   **HOUSE JOINT RESOLUTION NO. 5**

2  
3                   (By Delegates Caputo, D. Poling, Longstreth  
4  
5   and Manchin)

6  
7                   [Introduced January 12, 2011; referred to the  
8                   Committee on Constitutional Revision then Finance.]

9                   **FISCAL  
NOTE**

10 Proposing an amendment to the Constitution of the State of West  
11 Virginia, amending section one-b, article X thereof, relating  
12 to homestead exemption for totally disabled veterans;  
13 numbering and designating such proposed amendment; and  
14 providing a summarized statement of the purpose of such  
15 proposed amendment.

16       *Resolved by the Legislature of West Virginia, two thirds of*  
17 *the members elected to each house agreeing thereto:*

18       That the question of ratification or rejection of an amendment  
19 to the Constitution of the State of West Virginia be submitted to  
20 the voters of the state at the next general election to be held in  
21 the year 2012, which proposed amendment is that section one-b,  
22 article X thereof, be amended to read as follows:

23 **ARTICLE X. TAXATION AND FINANCE.**

24 **§1b. Property tax limitation and homestead exemption amendment of**  
25 **1982.**

26       Ad valorem property taxation shall be in accordance with this

1 section and other applicable provisions of this article not  
2 inconsistent with this section.

3 *Subsection A -- Value; Rate of Assessment; Exceptions*

4       Notwithstanding any other provisions of this Constitution and  
5 except as otherwise provided in this section, all property subject  
6 to ad valorem taxation shall be assessed at sixty percent of its  
7 value, as directed to be ascertained in this section, except that  
8 the Legislature may from time to time, by general law agreed to by  
9 two thirds of the members elected to each house, establish a higher  
10 percentage for the purposes of this paragraph, which percentage  
11 shall be uniform as to all classes of property defined in section  
12 one of this article, but not more than one hundred percent of ~~such~~  
13 the value.

14       ~~Notwithstanding the foregoing, for the first day of July, one~~  
15 ~~thousand nine hundred eighty-two, and the first day of July of each~~  
16 ~~year thereafter until the values may be fixed as a result of the~~  
17 ~~first statewide reappraisal hereinafter required, assessments shall~~  
18 ~~be made under the provisions of current statutory law, which is~~  
19 ~~hereby validated for such purpose until and unless amended by the~~  
20 ~~Legislature. Assessment and taxation in accord with this section~~  
21 ~~shall be deemed to be equal and uniform for all purposes.~~

22               *Subsection B -- Determination of Value*

23       The Legislature shall provide by general law for periodic  
24 statewide reappraisal of all property, which reappraisal shall be

1 related for all property to a specified base year which, as to each  
2 ~~such~~ reappraisal, shall be uniform for each appraisal for all  
3 classes of property and all counties. In ~~such~~ the law, the  
4 Legislature shall provide for consideration of: (1) Trends in  
5 market values over a fixed period of years prior to the base year;  
6 (2) the location of the property; and (3) ~~such~~ other factors and  
7 methods as it may determine: *Provided*, That with respect to  
8 reappraisal of all property upon the base year of 1980, ~~such~~  
9 reappraisals are deemed to be valid and in compliance with this  
10 section: *Provided, however*, That with respect to farm property, as  
11 defined from time to time by the Legislature by general law, the  
12 determination of value shall be according to its fair and  
13 reasonable value for farming purposes, as may be defined by general  
14 law.

15       The results of each statewide appraisal shall upon completion  
16 be certified and published and errors ~~therein~~ in the appraisal may  
17 be corrected, all as provided by general law. ~~The first such~~  
18 ~~statewide appraisal shall be completed, certified and published on~~  
19 ~~or before the thirty-first day of March, one thousand nine hundred~~  
20 ~~eighty-five, for use when directed by the Legislature.~~

21       The Legislature shall further prescribe by general law the  
22 manner in which each statewide reappraisal shall be employed to  
23 establish the value of the various separately assessed parcels or  
24 interests in parcels of real property and various items of personal

1 property subject to ad valorem property taxation, the methods by  
2 which increases and reductions in value subsequent to the base year  
3 of each statewide reappraisal shall be ascertained, and require the  
4 enforcement ~~thereof~~ of the reappraisal.

5           *Subsection C -- General Homestead Exemption*

6           Notwithstanding any other provisions of this Constitution to  
7 the contrary, the first twenty thousand dollars of assessed  
8 valuation of any real property, or of personal property in the form  
9 of a mobile home, used exclusively for residential purposes and  
10 occupied by the owner or one of the owners thereof as his or her  
11 residence who is a citizen of this state and who is sixty-five  
12 years of age or older or is permanently and totally disabled as  
13 that term may be defined by the Legislature, ~~shall be~~ is exempt  
14 from ad valorem property taxation, subject to ~~such~~ the  
15 requirements, limitations and conditions ~~as shall be~~ prescribed by  
16 general law.

17           Notwithstanding any other provisions of this Constitution to  
18 the contrary, a disabled veteran who receives from the United  
19 States Department of Veterans Affairs or its successor one hundred  
20 percent disability compensation due to a service-connected  
21 disability and a rating of one hundred percent disabled or of  
22 individual unemployability is entitled to an exemption from  
23 taxation of the total assessed valuation of any real property, or  
24 of personal property in the form of a mobile home, used exclusively

1 for residential purposes and occupied by the owner or one of the  
2 owners thereof as his or her residence who is a citizen of this  
3 state.

4       Notwithstanding any other provision of this Constitution to  
5 the contrary, the Legislature ~~shall have~~ has the authority to  
6 provide by general law for an exemption from ad valorem property  
7 taxation in an amount not to exceed the first \$20,000 of value of  
8 any real property, or of personal property in the form of a mobile  
9 home, used exclusively for residential purposes and occupied by the  
10 owner or one of the owners thereof as his or her residence who is  
11 a citizen of this state, and who is under sixty-five years of age  
12 and not totally and permanently disabled: *Provided*, That upon  
13 enactment of ~~such~~ the general law, this exemption ~~shall only apply~~  
14 ~~to such~~ only applies to the property in any county in which the  
15 property was appraised at its value as of January 1, 1980, or  
16 ~~thereafter~~ after that, as determined by the Legislature, and this  
17 exemption shall be phased in over ~~such~~ a period ~~of time~~ not to  
18 exceed five years from the date ~~such~~ the property was so appraised,  
19 or ~~such~~ a longer time as the Legislature may determine by general  
20 law: *Provided*, however, That in no event ~~shall~~ may any one person  
21 and his or her spouse, or one homestead be entitled to more than  
22 one exemption under these provisions: *Provided* further, That these  
23 provisions are subject to ~~such~~ the requirements, limitations and  
24 conditions ~~as shall be~~ prescribed by general law.

1       The Legislature ~~shall have~~ has the authority to provide by  
 2 general law for property tax relief to citizens of this state who  
 3 are tenants of residential or farm property.

4           *Subsection D -- Additional Limitations on Value*

5       ~~With respect to the first statewide reappraisal, pursuant to~~  
 6 ~~this section, the resulting increase in value in each and every~~  
 7 ~~parcel of land or interest therein and various items of personal~~  
 8 ~~property subject to ad valorem property taxation over and above the~~  
 9 ~~previously assessed value shall be allocated over a period of ten~~  
 10 ~~years in equal amounts annually.~~

11       The Legislature may by general law ~~also~~ provide for the  
 12 phasing in of any ~~subsequent~~ statewide reappraisal of property.

13           *Subsection E -- Levies for Free Schools*

14       In equalizing the support of free schools provided by state  
 15 and local taxes, the Legislature may require that the local school  
 16 districts levy all or any portion of the maximum levies allowed  
 17 under section one of this article which has been allocated to ~~such~~  
 18 the local school districts.

19       Within the limits of the maximum levies permitted for excess  
 20 levies for schools or better schools in sections one and ten of  
 21 this article, the Legislature may, in lieu of the exercise of such  
 22 powers by the local school districts as heretofore provided, submit  
 23 to the voters, by general law, a statewide excess levy, and if it  
 24 ~~be~~ is approved by the required number of voters, impose ~~such~~ the

1 levy, subject however to all the limitations and requirements for  
 2 the approval of ~~such~~ the levies as in the case of a district levy.  
 3 The law submitting the question to the voters shall provide, upon  
 4 approval of the levy by the voters, for the assumption of the  
 5 obligation of any local excess levies for schools then in force  
 6 theretofore authorized by the voters of a local taxing unit to the  
 7 extent of ~~such~~ the excess levies imposed by the state and so as to  
 8 avoid double taxation of those local districts. The Legislature  
 9 may also by general law reserve to the school districts ~~such~~ the  
 10 portions of the power to lay authorized excess levies as it ~~may~~  
 11 ~~deem~~ considers appropriate to enable local school districts to  
 12 provide educational services which are not required to be furnished  
 13 or supported by the state. If a statewide excess levy for the  
 14 support of free schools is approved by the required majority, the  
 15 revenue from ~~such a~~ the statewide excess levy shall be deposited in  
 16 the State Treasury and be allocated first for the local obligations  
 17 assumed and ~~thereafter~~ after that for ~~such~~ part of the state effort  
 18 to support free schools, by appropriation or as the law submitting  
 19 the levy to the voters shall require, as the case may be.

20       The defeat of any ~~such~~ proposed statewide excess levy for  
 21 school purposes ~~shall~~ does not in any way abrogate or impair any  
 22 local existing excess levy for ~~such~~ that purpose nor prevent the  
 23 adoption of any future local excess levy for ~~such~~ that purpose.

24                               *Subsection F -- Implementation*

1        In the event of any inconsistency between any of the  
2 provisions of this section and other provisions of this  
3 Constitution, the provisions of this section ~~shall~~ prevail. The  
4 Legislature ~~shall have~~ has plenary power to provide by general law  
5 for the equitable application of this article. ~~and, as to taxes to~~  
6 ~~be assessed prior to the first statewide reappraisal, to make such~~  
7 ~~laws retroactive to the first day of July, one thousand nine~~  
8 ~~hundred eighty-two, or thereafter~~

9        *Resolved further,* That in accordance with the provisions of  
10 article eleven, chapter three of the Code of West Virginia, 1931,  
11 as amended, such proposed amendment is hereby numbered "Amendment  
12 No. 1" and designated as the "Disabled Veterans Homestead Exemption  
13 Amendment" and the purpose of the proposed amendment is summarized  
14 as follows: "The purpose of this amendment is to provide an  
15 exemption from taxation of the total appraised value of a veteran's  
16 residence homestead if the veteran has a service-connected total  
17 disability."

NOTE: The purpose of this resolution is provide a one hundred percent homestead exemption to veterans who have a service-connected total disability.

Strike-throughs indicate language that would be stricken from the present Constitution, and underscoring indicates new language that would be added.